

## REMARKS:

### **Status of Claims**

Claims 1-4 are pending in the application. In the Office Action dated December 21, 2005, The Examiner rejected claims 1, 2, and 4 under 35 U.S.C. 102(b) as being anticipated by Makino and rejected claim 3 under 35 U.S.C. 103(a) as being unpatentable over Makino in view of Vose. These rejections are respectfully traversed in light of the instant amendments.

In this amendment, independent claims 1 and 4 have been amended to include the limitation that a surface of said piston selectively contacts an opening of said oil outlet such that an area of said opening varies according to a position of said piston. This is not new matter; see the FIGs. and paragraph [0014].

### **Makino**

Makino does not disclose or suggest such a limitation. Makino's spool member 15 and poppet valve 3, referred to by the Examiner as allegedly corresponding to the inventive piston, are disposed some distance below outlet port 12, whose area is invariable.

### **Substance of Telephone Interview**

In a telephone interview of January 5, 2006, Applicant pointed out that the Office Action of December 21, 2005 incorrectly set a shortened statutory period of 1 month for response. The Office Action should have set a shortened statutory period of 3 months. A response filed within three months of the mailing date of December 21, 2005 is timely and does not require a petition for extension of time.


### **Conclusions**

Makino and Vose, individually or in combination, do not teach or suggest all the limitations of independent claims 1 and 4. Claims 1 and 4, and thus claims 2 and 3, which depend from claim 1, are thus patentable over Makino and Vose.

In view of the foregoing, Applicant believes all claims now pending in this application are in condition for allowance. The issuance of a formal Notice of Allowance is respectfully requested.

Authorization is granted to charge any outstanding fees due at this time for the continued prosecution of this matter to Morgan, Lewis & Bockius LLP Deposit Account No. 50-0310 (matter no. 060945-0170)

Respectfully submitted,



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Date